II	
1	EDMUND G. BROWN JR. Attorney General of California
2	JANICE K. LACHMAN Supervising Deputy Attorney General
3	Anahita S. Crawford
4	Deputy Attorney General State Bar No. 209545
5	1300 I Street, Suite 125 P.O. Box 944255 Secretarian CA 04244 2550
6	Sacramento, CA 94244-2550 Telephone: (916) 322-8311
7	Facsimile: (916) 327-8643 Attorneys for Complainant
8	BEFORE THE BOARD OF REGISTERED NURSING
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA
10	——————————————————————————————————————
11	In the Matter of the Accusation Against: Case No. 2010-76
12	MARIA G. WOMACK 1521 Sigmaring Way
13	1531 Siemering Way Stockton, California 95209
14	Registered Nurse License No. 540182
15	Respondent.
16	
17	Complainant alleges:
18	<u>PARTIES</u>
19	1. Louise R. Bailey, M.Ed, RN ("Complainant") brings this Accusation solely in her
20	official capacity as the Interim Executive Officer of the Board of Registered Nursing ("Board"),
21	Department of Consumer Affairs.
22	Registered Nurse License
23	2. On or about January 30, 1998, the Board issued Registered Nurse License Number •
24	540182 to Maria G. Womack ("Respondent"). The registered nurse license was in full force and
25	effect at all times relevant to the charges brought herein and will expire on April 30, 2011, unless
26	renewed.
27	
28	
	1

JURISDICTION

3. This Accusation is brought before the Board of Registered Nursing, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

STATUTORY PROVISIONS

- 4. Section 2750 of the Business and Professions Code ("Code") provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.
- 5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.
 - 6. Code section 2770.7 states, in relevant part, that:
 - (c) If the reasons for a current investigation of a registered nurse are based primarily on the self-administration of any controlled substance or dangerous drug or alcohol under Section 2762, or the illegal possession, prescription, or nonviolent procurement of any controlled substance or dangerous drug for self-administration that does not involve actual, direct harm to the public, the board shall close the investigation without further action if the registered nurse is accepted into the board's diversion program and successfully completes the requirements of the program. If the registered nurse withdraws or is terminated from the program by a diversion evaluation committee, and the termination is approved by the program manager, the investigation shall be reopened and disciplinary action imposed, if warranted, as determined by the board.
 - (d) Neither acceptance nor participation in the diversion program shall preclude the board from investigating or continuing to investigate, or taking disciplinary action or continuing to take disciplinary action against, any registered nurse for any unprofessional conduct committed before, during, or after participation in the diversion program.
 - (f) Any registered nurse terminated from the diversion program for failure to comply with program requirements is subject to disciplinary action by the board for acts committed before, during, and after participation in the diversion program. A registered nurse who has been under investigation by the board and has been

terminated from the diversion program by a diversion evaluation committee shall be reported by the diversion evaluation committee to the board.

- 7. Code section 2770.11 states in relevant part that:
- (b) If the program manager determines that a registered nurse, who is denied admission into the program or terminated from the program, presents a threat to the public or his or her own health and safety, the program manager shall report the name and license number, along with a copy of all diversion records for that registered nurse, to the board's enforcement program. The board may use any of the records it receives under this subdivision in any disciplinary proceeding.
- 8. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

- (a) Unprofessional conduct. . .
- 9. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her ability to conduct with safety to the public the practice authorized by his or her license.

COST RECOVERY

10. Code section 125.3 provides, in pertinent part, that the Board may request the administrative law judge to direct a licentiate found to have committed a violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

FIRST CAUSE FOR DISCIPLINE

(Use of Controlled Substances and Alcohol)

11. Respondent has subjected her license to discipline pursuant to Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined in Code section 2762, subdivision (b), in that on March 16, 2007, while on duty as a registered nurse at Dameron Hospital, Stockton, California, Respondent used alcohol and/or controlled substances to an extent

or in a manner dangerous or to the extent that such use impaired her ability to conduct with safety to the public the practice authorized by her license.

- a. Respondent was assigned to the Post Anesthesia Care Unit and had been assigned patients to administer narcotic drugs to and monitor. During her shift, Respondent was observed by various hospital staff to be exhibiting signs of impairment such as slurred speech, difficulty focusing, awkward gait, and closing her eyes for long periods of time.
- b. Respondent admitted to hospital personnel that she drank approximately one shot (two swallows) of vodka at approximately 7:00 a.m. on March 16, 2007, arriving to work at 10:30 a.m. Respondent further admitted to ingesting Lexapro and Trazodone during her shift between 12:00 p.m. and 2:00 p.m. that caused her to feel "tired and loopy." Respondent was asked to go to Occupational Health for a drug test and medical assessment, but refused.
- c. Concerned for Respondent's safety, another nurse attempted to take Respondent's car keys away from her when Respondent got in her vehicle to drive home. Respondent refused to give her keys to the nurse and quickly left the hospital parking lot, nearly striking the nurse with her vehicle. Respondent was subsequently terminated from employment.
- d. From approximately June 18, 2007 through August 14, 2007, while in the Board's Diversion Program, Respondent used alcohol as follows:
 - 1. July 4, 2007, tested positive for alcohol
 - 2. July 9, 2007, tested positive for alcohol
 - 3. July 27, 2007, tested positive for alcohol
 - 4. August 1, 2007, tested positive for alcohol.
- e. On or about August 14, 2007, pursuant to code section 2770.11, Respondent was terminated from the Diversion Program as a public safety risk due to her continued relapses and her behavior in accessing alcohol even while in inpatient treatment. Respondent smuggled her cell phone into the facility and ordered bottles of alcohol to be delivered via taxi service with the taxi driver tossing the bottles over the fence at the facility. This occurred on three separate occasions.

-/.

PRAYER 1 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, 2 and that following the hearing, the Board of Registered Nursing issue a decision: 3 Revoking or suspending Registered Nurse License Number 540182, issued to Maria 1. 4 G. Womack; 5 Ordering Maria G. Womack to pay the Board of Registered Nursing the reasonable 2. 6 costs of the investigation and enforcement of this case, pursuant to Business and Professions 7 Code section 125.3; and, 8 3. Taking such other and further action as deemed necessary and proper. 9 10 DATED: 8/11/09 11 Louise R. Bailey, M.Ed, RN, Interim Executive Officer 12 Board of Registered Nursing 13 Department of Consumer Affairs State of California 14 Complainant 15 16 17 18 19 SA2009307493 30776602.doc 20 21 22 23 24 25 26 27

28